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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VIOLET BLUE, an individual,

Plaintiff/Counterclaim Defendant,

VS.

ADA MAE JOHNSON et al.,

Defendant/Counterclaim Plaintiff.

Case No.: C 07-5370 MJJ

**DEFENDANT WOFFINDEN'S
(INCORRECTLY PLEADED AS
"WOOFINDEN") ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT, AFFIRMATIVE
DEFENSES, COUNTERCLAIMS,
PRAYER FOR RELIEF AND JURY
DEMAND**

Hon. Martin J. Jenkins
Courtroom 11, 19th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

ANSWER

COMES NOW the Defendant Ada Mae Woffinden (incorrectly pleaded as “Woofinden”) *nee* Johnson aka “Violet” aka “Violet Lust” aka “Violet Blue” (“VIOLET BLUE”), by and through her attorneys, and alleges, as her Answer to the First Amended Complaint of Plaintiff Violet Blue aka

“Wendy Sullivan Blue” (“SULLIVAN-BLUE”), a self-styled pornography aficionado, on information and belief, the following:

INTRODUCTION

Almost eight (8) years ago, Defendant VIOLET BLUE began her acting and modeling career, starring and/or performing in traditional, mainstream productions, as well as starring and/or performing in productions that are commonly characterized as adult erotica. Adult Film Database (<<http://www.adultfilmdatabase.com>>) and the Internet Movie Database (<<http://www.imdb.com>>) both list the July 1999 production of a work entitled SMUT 14 as the oldest date in which Defendant VIOLET BLUE appeared. Defendant VIOLET BLUE has no independent recollection of that production, but remembers only that in the year 1999, she performed in the production of The Crow Salvation (in which she had no speaking part, and therefore was not credited).

At about the same time, upon information and belief, Plaintiff SULLIVAN-BLUE, a self-styled pornography aficionado, was employed at a pornography store located in San Francisco, California, named “Good Vibrations,” wherein copies of Defendant VIOLET BLUE’s video performances were, and, according to Plaintiff SULLIVAN-BLUE’s amended complaint, continue to be sold.

Upon information and belief, when Defendant VIOLET-BLUE's video productions were being sold at Good Vibrations in San Francisco, Plaintiff SULLIVAN-BLUE was employed at Good Vibrations in San Francisco.

Defendant VIOLET BLUE began using her stage name, "Violet Blue" on or about March 2000. At that time, she performed an Internet search for the name, "Violet Blue," but received no responsive documents. No results were provided referring to Plaintiff SULLIVAN-BLUE. As such, Defendant VIOLET BLUE reasonably concluded that she would experience no conflicts or confusion by using that name.

Defendant VIOLET BLUE, since commencing her career, has appeared in no fewer than 300 productions, using her maiden name, or more commonly, openly and notoriously using her stage

1 name, "Violet Blue."

2 Unbeknownst to Defendant VIOLET BLUE, Plaintiff SULLIVAN-BLUE alleges, at some
 3 time around 1999, she began using the *nom de plume*, "Violet Blue." Neither the Plaintiff nor the
 4 Defendant compete, one with the other, in their respective markets.

5 On or about March 2, 2007, almost eight (8) full years after Defendant VIOLET BLUE began
 6 using her stage name, Plaintiff SULLIVAN-BLUE, filed her application for a trademark for the mark,
 7 "Violet Blue" for use in international classes 9 and 41. *See Trademark Application Serial No.*
 8 77121570. The mark has not yet been placed on either the principal or secondary trademark registers
 9 maintained by the United States Patent and Trademark Office.

10 In December 2007, the United States Patent and Trademark Office published Plaintiff's
 11 requested trademark, "Violet Blue," for opposition. The current status of the mark is that it is open for
 12 opposition.

13 On or about October 22, 2007, Plaintiff SULLIVAN-BLUE, filed her complaint against
 14 Defendant VIOLET BLUE. On or about October 23, 2007, Defendant VIOLET BLUE was personally
 15 served with a copy of the summons and complaint. The due date for an answer to the complaint was
 16 November 13, 2007. Defendant VIOLET BLUE searched diligently for counsel to represent her.
 17 However, due to her extremely limited means, she was not able to secure representation. As such, she
 18 sought the assistance of the AVN Online magazine, who put out a call for assistance on Defendant
 19 VIOLET BLUE's behalf.

20 In January 2002, AVN Media, a well-established and highly regarded publisher of adult
 21 entertainment industry trade magazines and sponsor of the annual AVN Awards that recognize
 22 accomplishments of individuals in the adult entertainment industry awarded Defendant VIOLET
 23 BLUE the "Best New Starlet" award.

24 Plaintiff SULLIVAN-BLUE, a self-styled pornography aficionado, describes the Awards as
 25
 26

1 “big backslapping event where the same companies and same names win year after year.”¹

2 Defendant VIOLET BLUE believes, and therefore avers, that Plaintiff SULLIVAN-BLUE has
3 never been nominated for nor received an AVN Award.

4 Since July 1999, Defendant VIOLET BLUE has appeared or starred in more than 300 movies
5 and is a well known celebrity, both domestically and abroad.

6 On November 13, 2007, as a result of much pressure by counsel for Plaintiff SULLIVAN-
7 BLUE to do so or face a default on the complaint, Defendant VIOLET BLUE filed her answer
8 (dubbed “Response”) to the complaint as a *pro se* litigant.

9 On November 29, 2007, Robert S. Apgood of CarpeLaw PLLC, filed his application for
10 admission *pro hac vice* to this court for the limited purpose of representing Defendant VIOLET BLUE
11 in this matter.

12 On December 5, 2007, this Honorable Court granted the application.

13 On December 21, 2007, Plaintiff SULLIVAN-BLUE, a self-styled pornography aficionado,
14 filed her Motion for Leave to File Amended Complaint.

15 On January 21, 2008, Defendant VIOLET BLUE filed her Statement of Non-Opposition.

16 On January 29, 2008, this Honorable Court granted Plaintiff’s motion.

17 Defendant VIOLET BLUE now respectfully answers Plaintiff’s First Amended Complaint.

18 Answering Plaintiff’s introductory paragraph at 1:24-28 through 2:1-3, Plaintiff states a
19 conclusion of law to which no response is required. To the extent a response is required, Defendant
20 VIOLET BLUE admits that she has, at differing times, used the names, “Ada Mae Johnson,” “Ada
21 Woffinden,” “Violet Blue,” “Violet,” and “Violet Lust” all for legitimate purposes and without any
22 intent to perpetrate a fraud.

23

24 **I. PARTIES**

25

26¹ Violet Blue (2007-01-18). The Rise of Indie Porn? *SF Gate*.

1 1. Answering Paragraph 1, the averments contained therein are conclusions of law to
2 which no response is required. To the extent a response is deemed required, Defendant neither admits
3 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
4 Plaintiff to her proofs.

5 2. Answering Paragraph 2, the averments contained therein are conclusions of law to
6 which no response is required. To the extent a response is deemed required, Defendant ADMITS the
7 averments contained therein.

8 3. Answering Paragraph 3, the averments contained therein are conclusions of law to
9 which no response is required. To the extent a response is deemed required, Defendant neither admits
10 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
11 Plaintiff to her proofs.

12 4. Answering Paragraph 4, the averments contained therein are conclusions of law to
13 which no response is required. To the extent a response is deemed required, Defendant neither admits
14 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
15 Plaintiff to her proofs.

16 5. Answering Paragraph 5, the averments contained therein are conclusions of law to
17 which no response is required. To the extent a response is deemed required, based upon information
18 and belief, Defendant ADMITS the averments contained therein.

19 6. Answering Paragraph 6, the averments contained therein are conclusions of law to
20 which no response is required. To the extent a response is deemed required, Defendant neither admits
21 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
22 Plaintiff to her proofs.

23 7. Answering Paragraph 7, the averments contained therein are conclusions of law to
24 which no response is required. To the extent a response is deemed required, Defendant neither admits
25 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
26 Plaintiff to her proofs.

1 **II. JURISDICTION AND VENUE**

2 8. Answering Paragraph 8, the averments contained therein are conclusions of law to
3 which no response is required. To the extent a response is deemed required, based upon information
4 and belief, Defendant ADMITS the averments contained therein.

5 9. Answering Paragraph 9, the averments contained therein are conclusions of law to
6 which no response is required. To the extent a response is deemed required, based upon information
7 and belief, Defendant ADMITS the averments contained therein. Defendant further ADMITS that
8 venue is also proper in the United States District Court, Western District of Washington.

9 10. Answering Paragraph 10, the averments contained therein are conclusions of law to
10 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
11 she has received monetary income as a result of the subscription Web site located at
12 www.violetblue.org, but neither admits nor denies the remainder of the averments contained therein
13 for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

14 11. Answering Paragraph 11, the averments contained therein are conclusions of law to
15 which no response is required. To the extent a response is deemed required, Defendant neither admits
16 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
17 Plaintiff to her proofs.

18 12. Answering Paragraph 12, the averments contained therein are conclusions of law to
19 which no response is required. To the extent a response is deemed required, Defendant neither admits
20 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
21 Plaintiff to her proofs.

22 13. Answering Paragraph 13, the averments contained therein are conclusions of law to
23 which no response is required. To the extent a response is deemed required, Defendant neither admits
24 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
25 Plaintiff to her proofs.

14. Answering Paragraph 14, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant DENIES the averments thereon for the reason that the averments contained therein are untrue.

15. Answering Paragraph 15, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant DENIES the averments thereon for the reason that the averments contained therein are untrue.

III. INTRADISTRICT ASSIGNMENT

16. Answering Paragraph 16, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant ADMITS that Local Rule 3-2(c) applies to this matter.

IV. FACTS

A. PLAINTIFF (SULLIVAN) BLUE'S BACKGROUND.

17. Answering Paragraph 17, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant accepts at face value, and therefore does not deny, that Plaintiff is, as she pleads, "a newspaper communist." Regarding the remainder of the allegations, Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

18. Answering Paragraph 18, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant ADMITS that Exhibit A appears to be a written article. Regarding the remainder of the averments, Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

19. Answering Paragraph 19, the averments contained therein are conclusions of law to which no response is required. To the extent a response is deemed required, Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

1 20. Answering Paragraph 20, the averments contained therein are conclusions of law to
2 which no response is required. To the extent a response is deemed required, Defendant neither admits
3 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
4 Plaintiff to her proofs.

5 21. Answering Paragraph 21, the averments contained therein are conclusions of law to
6 which no response is required. To the extent a response is deemed required, Defendant DENIES that
7 Plaintiff authored or broadcasted her “podcast” prior to February 12, 2004, and only did so several
8 years after Defendant VIOLET BLUE had openly and notoriously employed the use of her stage name
9 and trademark, “Violet Blue.” Regarding the remainder of the paragraph, Defendant neither admits
10 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
11 Plaintiff to her proofs.

12 22. Answering Paragraph 22, the averments contained therein are conclusions of law to
13 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
14 Exhibit B appears to be a Web page, but DENIES that the Web page refers to Plaintiff SULLIVAN-
15 BLUE as “one of the Internet’s most influential figures.” Regarding the remainder of the averments,
16 Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge
17 or information and leaves Plaintiff to her proofs.

18 23. Answering Paragraph 23, the averments contained therein are conclusions of law to
19 which no response is required. To the extent a response is deemed required, Defendant neither admits
20 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
21 Plaintiff to her proofs.

22 24. Answering Paragraph 24, the averments contained therein are conclusions of law to
23 which no response is required. To the extent a response is deemed required, Defendant neither admits
24 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
25 Plaintiff to her proofs.

1 25. Answering Paragraph 25, the averments contained therein are conclusions of law to
 2 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 3 Exhibit C to the Amended Complaint is a photograph of a female, but DENIES that the exhibit provided
 4 to the Defendant if of a quality wherein any detail may be ascertained. Defendant also ADMITS that
 5 the bangs termed “betty bangs” by the Plaintiff are reminiscent of the short bangs worn by the famous
 6 model and actress, “Betty Page.” Defendant VIOLET BLUE further ADMITS that many women who
 7 perform in adult erotica emulate the hairstyles of noted performers, including Betty Page. Defendant
 8 VIOLET BLUE ADMITS that, upon information and belief, as recently as September 24, 2005,
 9 Plaintiff SULLIVAN-BLUE did **NOT** wear her hair in the “Betty Bangs” style. *See, e.g.*,
 10 <<http://web.archive.org/web/20050920052020/www.tinynibbles.com/violetblue.html>>, whereas
 11 Defendant VIOLET BLUE first emulated the Betty Page hairstyle in 2000 (at least five (5) years prior
 12 to Plaintiff SULLIVAN-BLUE adopting that style) when performing in the movie, “RealSexMachine
 13 31.” Regarding the remainder of the averments, Defendant neither admits nor denies the averments
 14 contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

15 26. Answering Paragraph 26, the averments contained therein are conclusions of law to
 16 which no response is required. To the extent a response is deemed required, Defendant neither admits
 17 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 18 Plaintiff to her proofs.

19 **B. DEFENDANT JOHNSON (VIOLET BLUE)**

20 27. Answering Paragraph 27, the averments contained therein are conclusions of law to
 21 which no response is required. To the extent a response is deemed required, Defendant admits that
 22 early in her career, she adopted the stage name, “Violet Blue.” Defendant VIOLET BLUE further
 23 ADMITS that, as a result of such long-term use of that stage name, Defendant VIOLET BLUE
 24 possesses a common-law trademark in the mark, “Violet Blue.” Regarding the remainder of the
 25 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient
 26 knowledge or information and leaves Plaintiff to her proofs.

1 28. Answering Paragraph 28, the averments contained therein are conclusions of law to
 2 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 3 since she began her acting career, she has appeared in hundreds of films, both mainstream and erotic,
 4 wherein she appeared under stage name, "Violet Blue," including those listed in Defendant
 5 SULLIVAN-BLUE'S complaint. Regarding the remainder of the paragraph, Defendant neither admits
 6 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 7 Plaintiff to her proofs.

8 29. Answering Paragraph 29, the averments contained therein are conclusions of law to
 9 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 10 some of the performances in which she partook were recorded in the State of California, but DENIES
 11 that all such recordings occurred in the State of California.

12 30. Answering Paragraph 30, the averments contained therein are conclusions of law to
 13 which no response is required. To the extent a response is deemed required, Defendant DENIES the
 14 averments contained therein indicating that recordings of Defendant's performances are available for
 15 sale at the Web sites located at www.movies.violetblue.org and www.violetblue.org. Regarding the
 16 remainder of the paragraph, Defendant neither admits nor denies the averments contained therein for
 17 lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

18 31. Answering Paragraph 31, the averments contained therein are conclusions of law to
 19 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 20 she has attended tradeshows in the District of Northern California promoting both her mainstream and
 21 erotic performances, both on video and on the Internet Web site located at www.violetblue.org, but
 22 DENIES that she "makes regular trips to this Judicial District." Regarding the remainder of the
 23 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient
 24 knowledge or information and leaves Plaintiff to her proofs.

25 32. Answering Paragraph 32, the averments contained therein are conclusions of law to
 26 which no response is required. To the extent a response is deemed required, Defendant ADMITS that

1 some of the performances in which she partook were recorded in the State of California, and that when
 2 she was so performing, she was doing so under her stage name and common-law trademark, "Violet
 3 Blue."

4 33. Answering Paragraph 33, the averments contained therein are conclusions of law to
 5 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 6 she agreed to appear at the Exotic Erotic Ball and ADMITS that she entered into contracts with Perry
 7 Mann, Inc. to appear in the Exotic Erotic Ball, but DENIES the remainder of the allegations for the
 8 reason that the averments contained therein are untrue.

9 34. Answering Paragraph 34, the averments contained therein are conclusions of law to
 10 which no response is required. To the extent a response is deemed required, Defendant neither admits
 11 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 12 Plaintiff to her proofs.

13 35. Answering Paragraph 35, the averments contained therein are conclusions of law to
 14 which no response is required. To the extent a response is deemed required, Defendant DENIES that
 15 www.violetblue.org is a "domain name." Defendant ADMITS that "www.violetblue.org" is a *host*
 16 *name*. Defendant ADMITS that the domain name, "violetblue.org" was registered in 2001, in part for
 17 her benefit. Regarding the remainder of the paragraph, Defendant DENIES the averments contained
 18 therein for the reasons that the averments contained therein are untrue.

19 36. Answering Paragraph 36, the averments contained therein are conclusions of law to
 20 which no response is required. To the extent a response is deemed required, DENIES that
 21 www.violetblue.org is a "domain," but ADMITS that the Web site located at "www.violetblue.org"
 22 has been and continues to be used for marketing Defendant VIOLET BLUE's goods and services
 23 utilizing her stage name and trademark, "Violet Blue." Defendant VIOLET BLUE ADMITS that
 24 certain areas of the Web site located at www.violetblue.org contain imagery of her designed to
 25 strongly resemble the real-life and long-standing appearance of the famous model and actress, "Betty
 26 Page." See Exhibit A attached hereto and by this reference hereby made a part hereof. Defendant

1 ADMITS that Plaintiff has styled herself to look like the famous actress and model "Betty Page" and
 2 that Plaintiff affirms this by referring to her short hair "bangs" as "Betty Bangs." Defendant VIOLET
 3 BLUE DENIES that she uses Plaintiff SULLIVAN-BLUE's likeness. Defendant VIOLET BLUE also
 4 DENIES that Plaintiff SULLIVAN-BLUE, a self-styled pornography aficionado, has the exclusive
 5 right to resemble the real-life and long-standing appearance of the famous model and actress, "Betty
 6 Page" and that to make any such representations is disingenuous. Defendant VIOLET BLUE
 7 ADMITS that Exhibit D to Plaintiff's First Amended Complaint contains a photograph of a female,
 8 alleged by Plaintiff to be of herself, who has prepared herself to strongly resemble the real-life and
 9 long-standing appearance of the famous model and actress, "Betty Page." *See, e.g.*,
 10 <<http://web.archive.org/web/20060507095625/www.bettiepage.com/photos/nude/index.html>>.
 11 Regarding the remainder of the paragraph, Defendant DENIES the averments contained therein for the
 12 reasons that the averments contained therein are untrue.

13 37. Answering Paragraph 37, the averments contained therein are conclusions of law to
 14 which no response is required. To the extent a response is deemed required, Defendant ADMITS the
 15 averments contained therein.

16 38. Answering Paragraph 38, the averments contained therein are conclusions of law to
 17 which no response is required. To the extent a response is deemed required, Defendant neither admits
 18 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 19 Plaintiff to her proofs.

20 **C. DEFENDANT ASSASSIN PICTURES.**

21 39. Answering Paragraph 39, the averments contained therein are conclusions of law to
 22 which no response is required. To the extent a response is deemed required, Defendant neither admits
 23 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 24 Plaintiff to her proofs.

25 40. Answering Paragraph 40, the averments contained therein are conclusions of law to
 26 which no response is required. To the extent a response is deemed required, Defendant neither admits

1 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 2 Plaintiff to her proofs.

3 41. Answering Paragraph 41, the averments contained therein are conclusions of law to
 4 which no response is required. To the extent a response is deemed required, upon information and
 5 belief, Defendant Assassin Pictures provides billing services through its AssassinCash program.
 6 Regarding the remainder of the paragraph, Defendant neither admits nor denies the averments
 7 contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

8 42. Answering Paragraph 42, the averments contained therein are conclusions of law to
 9 which no response is required. To the extent a response is deemed required, upon information and
 10 belief, Defendant Assassin Pictures receives income as a result of the paid subscriptions and other
 11 commercial activity conducted on Defendant VIOLET BLUE's Web site located at
 12 www.violetblue.org. Defendant VIOLET BLUE further ADMITS that she uses her stage name and
 13 trademark, "Violet Blue" on that Web site. Regarding the remainder of the paragraph, Defendant
 14 neither admits nor denies the averments contained therein for lack of sufficient knowledge or
 15 information and leaves Plaintiff to her proofs.

16 43. Answering Paragraph 43, the averments contained therein are conclusions of law to
 17 which no response is required. To the extent a response is deemed required, upon information and
 18 belief, Defendant Assassin Pictures receives income through Defendant VIOLET BLUE's Web site
 19 located at www.violetblue.org. Regarding the remainder of the paragraph, Defendant neither admits
 20 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 21 Plaintiff to her proofs.

22 **D. DEFENDANT ASSASSINCASH.**

23 44. Answering Paragraph 44, the averments contained therein are conclusions of law to
 24 which no response is required. To the extent a response is deemed required, Defendant neither admits
 25 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 26 Plaintiff to her proofs.

1 45. Answering Paragraph 45, the averments contained therein are conclusions of law to
 2 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 3 a Web site exists at www.assassincash.com. Defendant VIOLET BLUE ADMITS that "Defendant is
 4 informed and believes that Defendant AssassinCash is operated by Defendant Assassin Pictures."
 5 Regarding the remainder of the paragraph, Defendant neither admits nor denies the averments
 6 contained therein for lack of sufficient knowledge or information and leaves Plaintiff to her proofs.

7 46. Answering Paragraph 46, the averments contained therein are conclusions of law to
 8 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 9 "Defendant is informed and believes that AssassinCash is operated for the purpose of promoting an
 10 adult erotic entertainment 'affiliate program' to assist individuals" in earning commissions on sales
 11 referred to Web sites sponsored and promoted by AssassinCash. Regarding the remainder of the
 12 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient
 13 knowledge or information and leaves Plaintiff to her proofs.

14 47. Answering Paragraph 47, the averments contained therein are conclusions of law to
 15 which no response is required. To the extent a response is deemed required, upon information and
 16 belief, Defendant ADMITS that AssassinCash receives income as a result of the commercial aspects of
 17 Defendant VIOLET BLUE's Web site located at www.violetblue.org. Defendant VIOLET BLUE
 18 further ADMITS that the offerings at the Web site located at www.violetblue.org feature Defendant
 19 VIOLET BLUE using her stage name and trademark, "Violet Blue." Regarding the remainder of the
 20 paragraph, Defendant neither admits nor denies the averments contained therein for lack of sufficient
 21 knowledge or information and leaves Plaintiff to her proofs.

22 48. Answering Paragraph 48, the averments contained therein are conclusions of law to
 23 which no response is required. To the extent a response is deemed required, upon information and
 24 belief, Defendant AssassinCash receives income through Defendant VIOLET BLUE's Web site
 25 located at www.violetblue.org. Regarding the remainder of the paragraph, Defendant neither admits
 26

1 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
 2 Plaintiff to her proofs.

3 **E. DEFENDANT FOX**

4 49. Answering Paragraph 49, the averments contained therein are conclusions of law to
 5 which no response is required. To the extent a response is deemed required, upon information and
 6 belief, Defendant VIOLET BLUE ADMITS the averments contained therein.

7 50. Answering Paragraph 50, the averments contained therein are conclusions of law to
 8 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 9 BLUE ADMITS that she has a Web site located at www.violetblue.org, but DENIES the remainder of
 10 the paragraph for the reason that the averments contained therein are untrue.

11 51. Answering Paragraph 51, the averments contained therein are conclusions of law to
 12 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 13 BLUE ADMITS that she has a Web site located at www.violetblue.org, but DENIES the remainder of
 14 the paragraph for the reason that the averments contained therein are untrue.

15 **F. DEFENDANT FIVE STAR**

16 52. Answering Paragraph 52, the averments contained therein are conclusions of law to
 17 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 18 BLUE DENIES the averments contained therein for the reason that the averments contained therein
 19 are untrue.

20 53. Answering Paragraph 53, the averments contained therein are conclusions of law to
 21 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 22 BLUE DENIES the averments contained therein for the reason that the averments contained therein
 23 are untrue.

24 **G. ACTUAL CONFUSION AND THE DILUTION RESULTING FROM
 25 DEFENDANTS' USE OF PLAINTIFF (SULLIVAN-) BLUE'S NAME AND
 26 LIKENESS.**

1 54. Answering Paragraph 54, the averments contained therein are conclusions of law to
2 which no response is required. To the extent a response is deemed required, Defendant VIOLET
3 BLUE ADMITS that she was scheduled to appear at the "Exotic Erotic Ball" on or about October 28,
4 2006 using her stage name and trademark, "Violet Blue." Regarding the remainder of the paragraph,
5 Defendant neither admits nor denies the averments contained therein for lack of sufficient knowledge
6 or information and leaves Plaintiff to her proofs.

7 55. Answering Paragraph 55, the averments contained therein are conclusions of law to
8 which no response is required. To the extent a response is deemed required, Defendant DENIES that
9 Plaintiff was broadcasting her "podcast" in March 2000, when Defendant commenced use of her full
10 stage name, "Violet Blue." Regarding the remainder of the averments therein, Defendant neither
11 admits nor denies the averments contained therein for lack of sufficient knowledge or information and
12 leaves Plaintiff to her proofs.

13 56. Answering Paragraph 56, the averments contained therein are conclusions of law to
14 which no response is required. To the extent a response is deemed required, Defendant neither admits
15 nor denies the averments contained therein for lack of sufficient knowledge or information and leaves
16 Plaintiff to her proofs.

17 57. Answering Paragraph 57, the averments contained therein are conclusions of law to
18 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
19 the Web site located at "www.violetblue.org" has been and continues to be used for marketing
20 Defendant VIOLET BLUE's goods and services utilizing her stage name and trademark, "Violet
21 Blue." Defendant VIOLET BLUE ADMITS that certain areas of the Web site located at
22 www.violetblue.org contain imagery of her designed to strongly resemble the real-life and long-
23 standing appearance of the famous model and actress, "Betty Page." Defendant VIOLET BLUE
24 DENIES that she uses Plaintiff SULLIVAN-BLUE's likeness. Defendant VIOLET BLUE also
25 DENIES that Plaintiff SULLIVAN-BLUE has the exclusive right to resemble the real-life and long-

1 standing appearance of the famous model and actress, "Betty Page" and that to make any such
 2 representations is disingenuous. Defendant VIOLET BLUE ADMITS that in readying for some
 3 performances, she has prepared herself in the past to strongly resemble the real-life and long-standing
 4 appearance of the famous model and actress, "Betty Page." *See, e.g.*,
 5 <<http://web.archive.org/web/20060507095625/www.bettiepage.com/photos/nude/index.html>>.
 6 Regarding the remainder of the paragraph, Defendant DENIES the averments contained therein for the
 7 reasons that the averments contained therein are untrue.

8 **H. (F) DEFENDANT JOHNSON'S BROKEN PROMISE TO CEASE AND DESIST**

9 58. Answering Paragraph 58, the averments contained therein are conclusions of law to
 10 which no response is required. To the extent a response is deemed required, Defendant ADMITS that
 11 at one time she represented to Plaintiff SULLIVAN-BLUE that she was considering no longer using
 12 the stage name, "Violet Blue," but DENIES that such representation was a promise. Regarding the
 13 remainder of the paragraph, Defendant DENIES the averments contained therein for the reasons that
 14 the averments contained therein are untrue.

15 59. Answering Paragraph 59, the averments contained therein are conclusions of law to
 16 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 17 BLUE DENIES that her use of her stage name and trademark, "Violet Blue" is use of Plaintiff
 18 SULLIVAN-BLUE's valuable identity and trademark (much less an "unauthorized" one). Defendant
 19 VIOLET BLUE ADMITS that her use of her stage name and common-law trademark, "Violet Blue" is
 20 fully within her lawful rights of use of her mark.

21 60. Answering Paragraph 60, the averments contained therein are conclusions of law to
 22 which no response is required. To the extent a response is deemed required, Defendant VIOLET
 23 BLUE ADMITS that Plaintiff SULLIVAN-BLUE, a self-styled pornography aficionado, has
 24 demanded that Defendant VIOLET BLUE cease, desist, and quit use of Defendant VIOLET BLUE's
 25 stage name and trademark, "Violet Blue." Regarding the remainder of the paragraph, Defendant

1 neither admits nor denies the averments contained therein for lack of sufficient knowledge or
 2 information and leaves Plaintiff to her proofs.

3 **V. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **(Trademark Infringement)**

6 61. Answering Paragraph 61, Defendant repeats and restates her answers in Paragraphs 1
 7 through 60 as if set forth fully herein.

8 62. Answering Paragraph 62, the averments contained therein are conclusions of law. To
 9 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 10 the reasons that said allegations are untrue.

11 63. Answering Paragraph 63, the averments contained therein are conclusions of law. To
 12 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 13 the reasons that said allegations are untrue.

14 64. Answering Paragraph 64, the averments contained therein are conclusions of law. To
 15 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 16 the reasons that said allegations are untrue.

17 65. Answering Paragraph 65, the averments contained therein are conclusions of law. To
 18 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 19 the reasons that said allegations are untrue.

20 66. Answering Paragraph 66, the averments contained therein are conclusions of law. To
 21 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 22 the reasons that said allegations are untrue.

23 **SECOND CAUSE OF ACTION**

24 **(Trademark Dilution)**

25 67. Answering Paragraph 67, Defendant repeats and restates her answers in Paragraphs 1
 26 through 66 as if set forth fully herein.

1 68. Answering Paragraph 68, the averments contained therein are conclusions of law. To
 2 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 3 the reasons that said allegations are untrue.

4 69. Answering Paragraph 69, the averments contained therein are conclusions of law. To
 5 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 6 the reasons that said allegations are untrue.

7 70. Answering Paragraph 70, the averments contained therein are conclusions of law. To
 8 the extent that a response is deemed required, Defendant ADMITS that Plaintiff has no control over
 9 the quality of Defendant's offerings whether through her Web site or through brick-and-mortar sales
 10 establishments, but DENIES the remainder of the paragraph for the reasons that said allegations are
 11 untrue. Moreover, Defendant objects to Plaintiff's characterization of Defendant's work as "base,
 12 obscene, and pornographic" on the basis that Plaintiff owes much of her status as a self-described
 13 "well known and respected personality in the field of human sexuality" to authoring reviews on
 14 pornographic films. Specifically, Defendant VIOLET BLUE DENIES that Plaintiff's mark is
 15 "protected" from concurrent use by Defendant. Defendant VIOLET BLUE ADMITS that Plaintiff's
 16 own Web site located at <http://www.tinynibbles.com> discusses subjects such as "suck-lick-rim" (a
 17 reference to mouth-to-anus and mouth-to-genital sexual conduct), "hot sex ed" and "find good porn."
 18 Further, the works authored or reviewed by the Plaintiff include such titles as "The Ultimate Guide To
 19 Adult Videos: How To Watch Adult Videos And Make Your Sex Life Sizzle," "The Ultimate Guide
 20 To Fellatio: How To Go Down On A Man And Give Him Mind-Blowing Pleasure," "The Ultimate
 21 Guide To Cunninglingus," "The Smart Girl's Guide To Porn" and "Ultimate Guide To Anal Sex For
 22 Women."

23 71. Answering Paragraph 71, the averments contained therein are conclusions of law. To
 24 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 25 the reasons that said allegations are untrue.

26 72. Answering Paragraph 72, the averments contained therein are conclusions of law. To

the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue.

73. Answering Paragraph 73, the averments contained therein are conclusions of law. To the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue.

74. Answering Paragraph 74, the averments contained therein are conclusions of law. To the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue.

75. Answering Paragraph 75, the averments contained therein are conclusions of law. To the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue.

THIRD CAUSE OF ACTION

(Violation of Cal. Civil Code § 3344)

76. Answering Paragraph 76, Defendant repeats and restates her answers in Paragraphs 1 through 75 as if set forth fully herein.

77. Answering Paragraph 77, the averments contained therein are conclusions of law. To the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue.

78. Answering Paragraph 78, the averments contained therein are conclusions of law. To the extent that a response is deemed required, Defendant DENIES the averments contained therein for the reasons that said allegations are untrue. Moreover, Defendant objects to Plaintiff's disingenuous characterization of Defendant's work as "obscene" on the basis that Plaintiff owes much of her status as a self-described "well known and respected personality in the field of human sexuality" to authoring reviews on adult entertainment films in which Defendant VIOLET BLUE and others have performed. Defendant VIOLET BLUE ADMITS that Plaintiff's own Web site located at

1 and mouth-to-genital sexual conduct), “hot sex ed” and “find good porn.” Further, the works authored
 2 or reviewed by the Plaintiff include such titles as “The Ultimate Guide To Adult Videos: How To
 3 Watch Adult Videos And Make Your Sex Life Sizzle,” “The Ultimate Guide To Fellatio: How To Go
 4 Down On A Man And Give Him Mind-Blowing Pleasure,” “The Ultimate Guide To Cunninglingus,”
 5 “The Smart Girl’s Guide To Porn” and “Ultimate Guide To Anal Sex For Women.”

6 79. Answering Paragraph 79, the averments contained therein are conclusions of law. To
 7 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 8 the reasons that said allegations are untrue.

9 80. Answering Paragraph 80, the averments contained therein are conclusions of law. To
 10 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 11 the reasons that said allegations are untrue.

12 81. Answering Paragraph 81, the averments contained therein are conclusions of law. To
 13 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 14 the reasons that said allegations are untrue.

FOURTH CAUSE OF ACTION

(Unfair Competition)

17 82. Answering Paragraph 82, Defendant repeats and restates her answers in Paragraphs 1
 18 through 81 as if set forth fully herein.

19 83. Answering Paragraph 83, the averments contained therein are conclusions of law. To
 20 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 21 the reasons that said allegations are untrue.

22 84. Answering Paragraph 84, the averments contained therein are conclusions of law. To
 23 the extent that a response is deemed required, Defendant DENIES the averments contained therein for
 24 the reasons that said allegations are untrue.

25 85. Answering Paragraph 85, the averments contained therein are conclusions of law. To
 26 the extent that a response is deemed required, Defendant DENIES the averments contained therein for

1 the reasons that said allegations are untrue.

VI. AFFIRMATIVE DEFENSES

3 As affirmative defenses, Defendant alleges and states as follows:

- 4 1. Plaintiff has failed in whole or in part to state a claim upon which relief can be granted;
- 5 2. Plaintiff has suffered no damages and/or has failed to mitigate her damages, if any;
- 6 3. Plaintiff has suffered no injury nor is there a likelihood of injury;
- 7 4. Plaintiff has suffered no harm and/or irreparable harm;
- 8 5. Plaintiff failed to protect and/or enforce her alleged rights;
- 9 6. Plaintiff's Complaint is barred as unconscionable;
- 10 7. Plaintiff's Complaint is barred by reason of waiver;
- 11 8. Plaintiff's Complaint is barred by the doctrine of estoppel;
- 12 9. Plaintiff's Complaint is barred by the doctrine of assumption of laches;
- 13 10. No conduct by or attributable to Defendant was either the cause in fact or the proximate
cause of the damages alleged by Plaintiff. Rather, the damages alleged by Plaintiff were caused, either
in whole or in part, by Plaintiff's own acts or omissions or by the acts or omissions of persons or
entities other than Defendant. Plaintiffs' damages, if any, must be reduced accordingly;
- 14 11. Plaintiff's Complaint is barred by the Statutes of Limitations;
- 15 12. Plaintiff lacks exclusive right of use of the mark;
- 16 13. Plaintiff has created a likelihood of confusion in the mark by infringing and diluting
Defendant VIOLET BLUE's trademark;
- 17 14. Plaintiff's claimed mark, "Violet Blue," is not a famous mark as that term is contemplated
by 15 U.S.C. § 1125(c)(1), *et seq.* Plaintiff admits the same wherein on her own Web page located at
<<http://www.tinytibbles.com>>, she reproduces a quote from Webnation that states, "She might not be
a household name, but Violet Blue is the leading sex educator for the Internet generation." –
Webnation;
- 18 15. Plaintiff's requested mark is not fanciful.

1 16. Plaintiff's requested trademark is a word mark that is identical to the Crayola Crayon color,
 2 "Violet Blue," first offered in 1949, and Defendant VIOLET BLUE's common-law trademark;

3 17. When Defendant VIOLET BLUE adopted the use of her stage name, she had no knowledge
 4 of the Plaintiff whose name was, at that time, upon information and belief, Wendy Sullivan Blue;

5 18. Plaintiff, by attempting to convert the real-life and long-standing appearance of the famous
 6 model and actress, "Betty Page," to her own exclusive use, comes to the court with unclean hands;

7 19. Plaintiff, by emphasizing the term "pornography" in her complaint when referring to the
 8 offerings of Defendant VIOLET BLUE, implies that she does not engage in pornography. Yet, links
 9 to pornographic images of her emanate from her own Web site located at

10 <<http://www.tinynibbles.com>> and direct the reader to the Web site located at

11 <http://theblight.net/08/hhr_jan/>. By intentionally misleading this Honorable Court, Plaintiff
 12 SULLIVAN-BLUE, a self-styled pornography aficionado, comes to the court with unclean hands;

13 20. Plaintiff has filed trademark and service mark applications for subject matter specifically
 14 related to "sexual pleasures and pornography";

15 21. Although Defendant denies making any promises to Plaintiff, any promise that may have
 16 been made by Defendant VIOLET BLUE to Plaintiff SULLIVAN-BLUE, a self-styled pornography
 17 aficionado, to cease using Defendant's stage name and trademark, "Violet Blue," was a gratuitous
 18 promise, wholly unsupported by consideration of any kind, and was subject to unilateral withdrawal by
 19 Defendant VIOLET BLUE at any time for any reason, or no reason at all;

20 22. Plaintiff has acquiesced to Defendant VIOLET BLUE's use of the mark;

21 23. Defendant VIOLET BLUE's use of the mark was concurrent to Plaintiff's use of the mark
 22 since at least March 2000;

23 24. Plaintiffs cannot establish its claims of trademark infringement and unfair competition
 24 claims as the parties have co-existed with their respective uses of the name "Violet Blue" for many
 25 years without confusion;

25. Plaintiff cannot establish her first claim of infringement if Defendant's counterclaim for cancellation of Trademark and Service Mark Application Serial No. 77121570 (unregistered mark) is granted;

26. Defendant hereby reserves the right to add, supplement, modify, change or amend any and all of its Affirmative Defenses as the facts and circumstances become known through further discovery and/or investigation.

VII. COUNTERCLAIMS

Defendant Ada Mae Woffinden, *nee* Johnson (“Counterclaim Plaintiff”), an individual, asserts these counterclaims against Plaintiff Violet Blue aka Wendy Sullivan Blue, an individual (“Counterclaim Defendant”).

PARTIES

1. Counterclaim Plaintiff Ada Mae Woffinden, *nee* Johnson, is an individual who resides in the State of Washington.

2. Counterclaim Defendant, Violet Blue aka Wendy Sullivan Blue, is an individual who, on information and belief, resides in the State of California.

3. Counterclaim Defendant is listed as the owner of Trademark Registration Application Serial No. 77121570 for the trademark and service mark “Violet Blue” in the International Class 009 for web casts, and podcasts featuring music, audio books and news broadcasts, in the fields of *inter alia*, sexual pleasures and pornography; and in International Class 041 for downloadable publications in the nature of individual texts of blog posts, photographs, electronic books, audio books, news columns, and newsletters, in the fields of, *inter alia*, sexual pleasures and pornography.

4. As a result of her close association with the adult erotica market, Counterclaim Defendant knew, or should have known, that Counterclaim Plaintiff Woffinden was openly and notoriously using the stage name and trademark “Violet Blue” as no later than March 2000.

5. Upon information and belief, Plaintiff/Counterclaim Defendant changed her legal name from Wendy Sullivan Blue to Violet Blue on or about 2002.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of these counterclaims pursuant to
 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over Counterclaim Defendant and venue in this District is proper pursuant to 28 U.S.C. § 1391, and by virtue of the fact that the Counterclaim Defendant resides in this District and regularly solicits business in this District. Counterclaim Plaintiffs further assert that jurisdiction is also proper in the Western District of Washington, as that is the district in which the Defendant/Counterclaim Plaintiff resides, and in which the Counterclaim Defendant conducts business by offering for sale to the residents therein, the various books that she has authored. Counterclaim Defendant offers her books for sale through the online retailer, Amazon.com, with whom she has a contractual relationship and who is located in the Western District of Washington.

FIRST COUNTERCLAIM FOR DECLARATORY RELIEF

8. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

9. Counterclaim Plaintiff requests declaratory relief that her use of "Violet Blue" in connection with online and video adult erotica performances is not infringing Counterclaim Defendant's use of her name "Violet Blue" in connection with web casts, and podcasts featuring music, audio books and news broadcasts, in the fields of *inter alia*, sexual pleasures and pornography, and other categories identified in Trademark International Class 9, and downloadable publications in the nature of individual texts of blog posts, photographs, electronic books, audio books, news columns, newsletters, and other categories in the fields of *inter alia*, sexual pleasures and pornography, identified in Trademark International Class 41.

SECOND COUNTERCLAIM FOR DECLARATORY RELIEF

10. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

1 11. Counterclaim Plaintiff requests declaratory relief that Counterclaim Defendant's use of
 2 "Violet Blue" is not famous and has not been diluted by Counterclaim Plaintiffs' use of "Violet" and
 3 "Violet Blue" in connection with online and video mainstream and adult erotica performances.

4 **THIRD COUNTERCLAIM FOR CANCELLATION OF U.S. TRADEMARK AND SERVICE
 5 MARK REGISTRATION APPLICATION SERIAL NO. 77121570**

6 12. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every
 7 allegation set forth above.

8 13. Counterclaim Plaintiff requests that the Court cancel Counterclaim Defendant's U.S.
 9 Trademark and Service Mark Registration Application Serial No. 77121570 as the Counterclaim
 10 Defendant committed fraud on the U.S. Trademark Office by representing to the Office that
 11 Counterclaim Defendant's use of the sought mark has been used "exclusively and continuously" in
 12 International Class 009 for web casts, and podcasts featuring music, audio books and news broadcasts,
 13 in the fields of *inter alia*, sexual pleasures and pornography; and in International Class 041 for
 14 downloadable publications in the nature of individual texts of blog posts, photographs, electronic
 15 books, audio books, news columns, and newsletters, in the fields of, *inter alia*, sexual pleasures and
 16 pornography and Counterclaim Defendant intentionally failed to take steps to correct this
 17 misrepresentation.

18 **FOURTH COUNTERCLAIM FOR INJUNCTIVE RELIEF PROSCRIBING
 19 COUNTERCLAIM DEFENDANT'S USE OF COUNTERCLAIM PLAINTIFF'S
 20 TRADEMARK**

21 14. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every
 22 allegation set forth above.

23 15. Counterclaim Plaintiff believes, and therefore avers that Counterclaim Defendant
 24 intentionally sought and received a change of her legal name to that of Counterclaim Plaintiff's stage
 25 name and trademark for the purpose of capitalizing on Counterclaim Plaintiff's goodwill in her stage
 26 name and mark.

FIFTH COUNTERCLAIM FOR DAMAGES FROM OUTRAGE

16. Counterclaim Plaintiff alleges, re-alleges and incorporates by reference each and every allegation set forth above.

17. Counterclaim Defendant has made numerous postings on the Internet regarding Counterclaim Plaintiff and has, at times, slandered and libeled Counterclaim Plaintiff in such a manner on Counterclaim Defendants Web site that Counterclaim Plaintiff cannot respond in a meaningful manner. This outrage includes the specific allegation by Counterclaim Defendant SULLIVAN-BLUE that Counterclaim Plaintiff is a "twat."

18. Counterclaim Defendant's allegations were and are false.

19. Counterclaim Plaintiff intended that these instances of outrage be committed in such a manner that Counterclaim Plaintiff could not and cannot respond in a meaningful manner to dispute the allegations.

20. Counterclaim Defendant is in an advantaged comparative situation over Counterclaim Plaintiff in that she is able to reach the ears of some 3.2 million people on the Internet, as alleged in her First Amended Complaint, and several millions of people in the greater San Francisco, California area as a result of her weekly column in the SFGate publication.

21. By making these allegations, Counterclaim Defendant intended for other persons to believe her allegations to be true.

22. Responses on Counterclaim Defendant's Web site indicate that other persons did believe Counterclaim Defendants allegations to be true.

23. Since Counterclaim Plaintiff is unable to post responses on Counterclaim Defendant's Web site, she is unable to dispute the allegations, and is thereby damaged by the false allegations.

24. As a result, Counterclaim Plaintiff has been damaged in an amount to be proven at trial.

VIII. PRAYER FOR RELIEF

WHEREFORE, Defendant/Counterclaim Plaintiff prays:

1. That the Court deny all of Plaintiff's claims and relief and/or damages;

2. That the Court enter judgment in favor of Defendant on Plaintiff's claims and dismiss Plaintiff's Complaint with prejudice;

3. That the Court grant Counterclaim Plaintiff judgment against Counterclaim Defendant on Counterclaim Plaintiff's counterclaims;

4. That the Court declares that Defendant did not infringe or dilute under the Lanham Act and that Defendant did not violate unfair competition laws;

5. That Plaintiff failed to make an adequate pre-filing investigation as required under Rule 11, and the Court consider sanctions under Rule 11, including and award of attorney's fees to Defendant;

6. That Counterclaim Defendant's U.S. Trademark and Service Mark Application, Serial No. 77121570 be denied and cancelled;

7. That Defendant, Counterclaim Plaintiff be awarded her reasonable costs, including attorney's fees, incurred defending herself in this action and prosecuting her counterclaims;

8. Where applicable, Counterclaim Plaintiff be awarded treble damages;

9. That Counterclaim Plaintiff be awarded fees pursuant to 28 U.S.C. § 1927; and

10. For such further and other relief as the Court may deem appropriate.

IX. JURY DEMAND

Defendant/Counterclaim Plaintiff respectfully demands a trial by a jury of her peers.

DATED THIS 4th day of February 2008.

Respectfully submitted,
CARPELAW PLLC

/s/ Robert S. Apgood
Robert S. Apgood, *Pro Hac Vice*

WSBA #31023
Attorney for Defendant Ada Mae Woffinden
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DECLARATION OF SERVICE

I, Robert S. Apgood, hereby make the following Declaration from personal knowledge that on February 4,, 2008, I served the foregoing

1. Defendant Woffinden's Answer To Plaintiff's First Amended Complaint, Affirmative Defenses, Counterclaims, Prayer For Relief And Jury Demand; and
 2. this certificate of Service

on the following attorneys by transmitting an electronic version thereof, by transmitting a facsimile thereof, and by depositing a copy thereof in the U.S. Mail, postage prepaid:

Collette Vogeles
Benjamin Costa
Vogeles & Associates
580 California Street
Suite 1600
San Francisco, CA 94104

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 4th day of February 2008 at Seattle, Washington.

CARPELAW PLLC

s/ Robert S. Apgood
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